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June 22, 2005

The Honorable Mike Johanns
Secretary
United States Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Secretary Johanns:

One week ago, you announced what may be the first U.S.-born cow to test positive for BSE, or mad cow disease. This announcement reminds all of us that we must continue to be vigilant in our efforts to keep our animal herds and food supply safe from BSE. While I understand that additional testing is still in process, I believe that all Americans deserve to know the answers to some basic questions about this case and related BSE prevention and control measures.

1. We know that cows develop BSE from eating contaminated feed. Animals raised at the same time on the same farm as the suspect cow presumably ate the same feed, yet USDA has made no announcement on whether these cows entered the food supply.

Has USDA located the animals that were raised with this cow and thus presumably exposed to the same feed? Did any of these cows enter the food supply? Have these cows been tested for BSE?

2. The goal of the National Animal Identification System is to enable 48-hour traceback of the movements of any diseased or exposed animal. In January 2004, USDA stated that it would accelerate implementation of a national animal ID system, and Congress appropriated \$33 million for the animal ID program for FY2005. Yet we still don't have a system up and running.

Why hasn't USDA yet implemented 48-hour traceback capability? How can we reassure consumers and our trading partners that our meat supply is as safe as possible if we aren't able to quickly identify cows that might be at higher risk for BSE or other diseases?

3. USDA has announced that the suspect cow was an older cow, born before the feed ban was implemented in 1997. Both an expert international review team assembled by USDA and USDA's Office of the Inspector General have supported testing a sample of older cows, even those that appear healthy. Last March, USDA announced its intention to test a

sample of healthy-appearing, older cows. Yet over a year later, this program has not yet been implemented.

Why has USDA failed to implement a testing program in healthy-appearing, older cows, despite its own promise to do so and despite the recommendations of the International Review Team and the Office of the Inspector General? What are your current plans and timetable for this essential action?

4. In your testimony to Congress, you have described the ban on feeding ruminants-to-ruminants as “the most significant step we can take to prevent the spread of BSE and bring about its complete eradication.” Yet, despite FDA’s January 2004 announcement that it would strengthen the feed ban by eliminating loopholes for plate waste and poultry litter, FDA has not acted to strengthen the feed ban since then.

Are you working with FDA to accelerate the implementation of a strengthened feed ban? When will the feed ban be strengthened? Why has there been this 18-month delay?

5. A number of European countries and Japan incorporate the Western Blot test in their surveillance programs.

Does USDA intend to routinely use both the Western Blot and the immunohistochemistry test on samples that test positive with rapid testing? When will this approach be implemented?

6. I am concerned about the negative impact that the continued closure of Asian markets, particularly Japan, to American beef exports has had on American meat producers and processors. Some groups, including a private firm, have sought to test all cattle for BSE, as a way of accelerating the reopening of the Japanese and other Asian markets. However, under your predecessor, USDA blocked this voluntary testing. An April 2005 study by the Kansas Department of Agriculture and K-State Research and Extension suggests that voluntary testing could lead to substantial economic returns.

- Why does USDA refuse to allow firms to voluntarily test all cattle as a means of accelerating the reopening of the Japanese and other Asian markets? Will you reconsider this policy and support a regulatory or legislative change to permit such testing with suitable safeguards?

In the immediate aftermath of the first case of BSE in the United States in December 2003, USDA promised a strong response. I am concerned by the number of promises that remain unfulfilled. For much of the intervening year and a half, the media spotlight may have shifted away from BSE, but that makes it no less important to follow through on the promises of stronger public health and animal health safeguards.

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I hope the questions here are among the questions you are asking of your staff and of the agencies under you. In your tenure as Secretary, you have the opportunity to strengthen our nation's firewalls against BSE. I hope you will seize the moment. I would appreciate answers to these questions by Friday, July 1, 2005.

Sincerely,

A handwritten signature in black ink, appearing to read "Dick Durbin". The signature is fluid and cursive, with a prominent "D" and "D".

Richard J. Durbin
United States Senator